

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
IN THE MATTER OF THE COMPLAINT,

-of-

MILLERS LAUNCH as owner of a 1978 31-foot  
motor vessel and CITY OF NEW YORK,  
DEPARTMENT OF ENVIRONMENTAL PROTECTION,  
as owner and MILLER'S LAUNCH, INC., as a bareboat  
charterer or owner of Pro Hac Vice, of a 1994 34-foot  
motor vessel, for Exoneration from or Limitation of Liability,

Petitioners.

-----X  
MARCUS LINK

Third-Party Plaintiff

-vs-

SKANSKA USA BUILDING INC.,  
and SKANSKA MECHANICAL AND STRUCTURAL  
INC. f/k/a GOTTLIEB SKANSKA, INC.

Third-Party Defendant  
-----X

VIA ECF

Civil Action No.  
10- CV-00872 (JBC)

**NOTICE OF MOTION**  
**TO DISMISS**

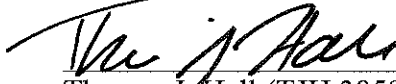
**PLEASE TAKE NOTICE**, that upon the annexed Declaration of Thomas J. Hall, affirmed the 28<sup>th</sup> day of September, 2010, the accompanying memorandum of law and all pleadings and proceedings heretofore had herein, the defendant, SKANSKA USA BUILDING INC., and SKANSKA MECHANICAL AND STRUCTURAL INC. f/k/a GOTTLIEB SKANSKA, INC. (SKANSKA), shall move this Court before the Honorable Brian Cogan at the United States District Court for the Eastern District of New York at the Courthouse located at 944 Federal Plaza, New York New York on the 9th day of November, 2010 at 9: 30 o'clock in the forenoon of that day or as soon thereafter as counsel may heard, for an Order pursuant to Fed.

R.Civ. P. 12(b) granting dismissal of the Third Party Summons and Complaint, together with such other and further relief as this Court may deem just and proper.

Oral argument is requested.

Dated: New York, New York  
September 28, 2010

Respectfully submitted,



Thomas J. Hall (TJH 3859)  
FABIANI COHEN & HALL  
Attorneys for Defendant  
SKANSKA USA BUILDING INC., and  
SKANSKA MECHANICAL AND STRUCTURAL  
INC. f/k/a GOTTLIEB SKANSKA, INC  
570 Lexington Avenue  
New York, New York 10022  
(212) 644-4420

TO: Rubin Fiorella & Friedman,LLP  
Michael Evan Stern, Esq.  
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The City of New York and Department of  
Environmental Protection  
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Raphaelson & Levine, Law Firm P.C.  
Andrew J. Levine, Esq.  
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(212) 268-3222

*Link v. The City of New York et. al.*  
*Index No. 10- CV-00872 (JBC)*  
*Our File No. 740.36287*

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing **THIRD-PARTY DEFENDANT'S, SKANSKA USA BUILDING INC., and SKANSKA MECHANICAL AND STRUCTURAL INC. f/k/a GOTTLIEB SKANSKA, INC.'S NOTICE OF MOTION TO DISMISS** was served Via ECF on the 28<sup>th</sup> day of September, 2010 upon:

Rubin Fiorella & Friedman,LLP  
Attorneys for Plaintiffs Miller's Launch, Inc.,  
The City of New York and Department of  
Environmental Protection  
292 Madison Avenue, 11<sup>th</sup> Floor  
New York, New York 10017  
Attention: Michael Evan Stern

Rubin Fiorella & Friedman,LLP  
Attorneys for Plaintiffs Miller's Launch, Inc.,  
The City of New York and Department of  
Environmental Protection  
292 Madison Avenue, 11<sup>th</sup> Floor  
New York, New York 10017  
Attention: James Edward Mercante

Rubin Fiorella & Friedman,LLP  
Attorneys for Plaintiffs Miller's Launch, Inc.,  
The City of New York and Department of  
Environmental Protection  
292 Madison Avenue, 11<sup>th</sup> Floor  
New York, New York 10017  
Attention: Patrick Corbett

Raphaelson & Levine, Law Firm P.C.  
Attorneys for Defendant Marcus Link  
14 Penn Plaza, Suite 407  
New York, New York 10122  
Attention: Andrew J. Levine

  
Thomas J. Hall (TJH 3859)

Sworn to before me this  
28<sup>th</sup> day of September, 2010.

  
Notary Public

Sander N. Rothchild  
Notary Public, State of New York  
No. 02RO6004327 Qualified in New York County  
Commission Expires March 23, 2019

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motor vessel, for Exoneration from or Limitation of Liability,

(JBC)(ECF Case)

AFFIRMATION IN  
SUPPORT OF MOTION  
PURSUANT TO  
FRCP §12(b)

Petitioners.

-----X  
MARCUS LINK

Third-Party Plaintiff

-vs-

SKANSKA USA BUILDING INC.,  
and SKANSKA MECHANICAL AND STRUCTURAL  
INC. f/k/a GOTTLIEB SKANSKA, INC.

Third-Party Defendant

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**NOTICE OF MOTION TO DISMISS**  
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FABIANI COHEN & HALL, LLP  
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